

SENATE COMMITTEE AMENDMENTS

Amendments proposed by Senate Committee on Revenue and Fiscal Affairs to Engrossed House Bill No. 693 by Representative Greene

AMENDMENT NO. 1

On page 1, line 2, after "reenact" insert "R.S. 47:6007(B)(3), (C)(2)(b)(i), and (D)(2)(d) and"

AMENDMENT NO. 2

On page 1, after "Legislature," insert "and to enact R.S. 47:6007(G) and Sections 3(D) and (E) of Act No. 456 of the 2007 Regular Session of the Legislature,"

AMENDMENT NO. 3

On page 1, delete lines 4 and 5, and on line 6, delete "of tax credits;" and insert the following:

"initial certification of certain state-certified infrastructure projects and submission of applications for certain state-certified infrastructure projects; to provide relative to requirements and limitations; to provide relative to appeals of a denial of an application for certification; to define certain terms; to provide for certain maximum limitations on tax credits for infrastructure projects;"

AMENDMENT NO. 4

On page 1, delete lines 8 through 20, and insert the following:

"Section 1. R.S. 47:6007(B)(3), (C)(2)(b)(i) and (D)(2)(d) are hereby amended and reenacted, and R.S. 47:6007(G) is hereby enacted to read as follows: §6007. Motion picture investor tax credit

* * *

B. Definitions. For the purposes of this Section:

* * *

(3) "Expended in the state" in the case of tangible property in a certified production shall mean property which is acquired from a source within the state and in a certified infrastructure project shall mean property which is acquired pursuant to the development of a state certified infrastructure project and, in the case of services for either a state certified production or a state certified infrastructure project, shall mean services procured and performed in the state.

* * *

C. Investor tax credit; specific productions and projects.

* * *

(2)

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(b)(i) An infrastructure project shall be approved within forty-five days of submission if it is a film, video, television, or digital production or postproduction facility. If an application is denied, this denial shall be in writing and shall constitute final agency action. Written reasons for the denial shall be provided to the applicant within five days of written request.

* * *

D. Certification and administration.

* * *

(2)

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(d)(i)(aa) Prior to any final certification of the state-certified production or infrastructure project, the motion picture production company or applicant for the infrastructure project shall submit to the office and the secretary and, in the case of infrastructure projects, to the office, the secretary, and the division, a cost report of production or infrastructure project expenditures audited and certified by an

independent certified public accountant as determined by rule. The office and the secretary and, in the case of infrastructure projects, the office, the secretary, and the division shall review the production or infrastructure project expenses ~~and will issue.~~

(bb) After the review either a final tax credit certification letter indicating the amount of tax credits certified for the state-certified production or state-certified infrastructure project, a written request for more information in order to complete an application, or written reasons for a denial of the certification shall be issued to the investors. Such issuance, request, or denial shall occur within thirty days of the submission of a completed application for a state-certified production and within forty-five days of submission of a completed application for a state certified infrastructure project.

(cc) If a written request for more information is made, the same time periods for action shall apply as provided for in Subitem (bb) of this Item from the date the information is submitted.

(dd) If a final certification is denied, the denial shall be in writing and shall constitute final agency action. Written reasons for the denial shall be provided to the applicant within five days of written request.

(i) The rules required by this Subparagraph shall, at a minimum, require that:
(i)(aa) The auditor shall be a certified public accountant licensed in the state of Louisiana and shall be an independent third party, not related to the producer.

(ii)(bb) The auditor's opinion shall be addressed to the party which has engaged the auditor (e.g., directors of the production company, producer of the production).

(iii)(cc) The auditor's name, address, and telephone number shall be evident on the report.

(iv)(dd) The auditor's opinion shall be dated as of the completion of the audit fieldwork.

(v)(ee) The audit shall be performed in accordance with auditing standards generally accepted in the United States of America and the auditor shall have sufficient knowledge of accounting principles and practices generally recognized in the film and television industry.

* * *

G. Appeals. Any denial of an application for initial certification or of an application for final certification may be appealed by the applicant by written request made to the office within thirty days of receipt of written notification of the denial. The office shall forward the request for appeal to the division of administrative law within ten days of receipt of such request, with written reasons for the denial and supporting documentation. The division of administrative law shall conduct a hearing. The office shall promptly provide written notice of all such denials, the written reasons for such denial, and the status of any appeal to the Senate Committee on Revenue and Fiscal Affairs and the House Committee on Ways and Means. The applicant may appeal an adverse decision to the Nineteenth Judicial District Court.

Section 2. Section 3(C) of Act No. 456 of the 2007 Regular Session of the Legislature is hereby amended and reenacted to read as follows:

Section 3. * * *
(C) ~~An application for an infrastructure project filed on or before August 1, 2007, shall have twenty-four months from the date of approval of the rules or January 1, 2008, whichever is earlier, in which to qualify for the forty percent tax credits earned on expenditures~~ Notwithstanding any other provision of this Section, an infrastructure project for which an application was filed on or before August 1, 2007 that has received an initial certification letter from the division, the Department of Economic Development, and the office by December 31, 2009, shall be entitled to receive credits equal to forty percent of the base investment expended in the development of the state-certified infrastructure project until the project is completed, provided that a minimum of twenty percent or ten million dollars of the total base investment established by the initial certification letter, whichever is less, shall be expended on infrastructure unique to Louisiana film, video, television, and digital production and post-production infrastructure no later than December 31, 2009. No tax credits shall be considered for final certification unless and until the minimum of twenty percent or ten million dollars of the total base investment established by the initial certification letter, whichever is less, has been expended on

1 infrastructure unique to Louisiana film, video, television, and digital production and
2 post-production infrastructure. If a project fails to obtain an initial certification letter
3 or fails to expend the minimum of twenty percent or ten million dollars of the total
4 base investment established by the initial certification letter, whichever is less, on
5 infrastructure unique to Louisiana film, video, television, and digital production and
6 post-production infrastructure by December 31, 2009, then no expenditures shall be
7 entitled to earn tax credits. Tax credits on infrastructure projects shall be considered
8 earned in the year in which expenditures are made, ~~provided that a minimum of~~
9 ~~twenty percent or ten million dollars of the total base investment provided for in the~~
10 ~~initial certification that is unique to film production infrastructure shall be expended~~
11 ~~before infrastructure tax credits can be earned on expenditures.~~ The payment of tax
12 credits may extend beyond or be made after the year expenditures are made."

13 AMENDMENT NO. 5

14 Delete page 2, and on page 3, delete lines 1 through 3

15 AMENDMENT NO. 6

16 On page 3, between lines 3 and 4, insert the following:

17 "Section 2. Sections 3(D) and (E) of Act 456 of the 2007 Regular Session are
18 hereby enacted to read as follows:

19 Section 3. * * *

20 D.(1) "State-certified infrastructure project" shall mean a film, video,
21 television, and digital production and postproduction facility, and movable and
22 immovable property and equipment related thereto, all as determined and approved
23 by the office, the secretary of the Department of Economic Development, and the
24 division of administration under such terms and conditions as are authorized by R.S.
25 47:6007, excluding R.S. 47:6007(C)(2), and in accordance with the immediate and
26 long term objectives of Act 456 of the 2007 Regular Session of the Legislature. The
27 term "infrastructure project" shall not include movie theaters or other commercial
28 exhibition facilities.

29 (2) "State-certified infrastructure project" as defined herein shall apply to all
30 projects certified before August 1, 2007 and shall not apply to any project certified
31 after August 1, 2007.

32 E.(1) Notwithstanding any other provision of law to the contrary, no more
33 than a total of twenty-five million dollars in state-certified infrastructure project tax
34 credits shall be approved in any fiscal year. However, nothing shall prevent tax
35 credits which are unused in a particular fiscal year from being carried forward for
36 use in the next fiscal year.

37 (2) The secretary of the Department of Economic Development shall
38 approve such infrastructure tax credits each fiscal year on a first come, first served
39 basis."

40 AMENDMENT NO. 7

41 On page 3, line 4, change "Section 2." to "Section 3."